IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No. 3085 of 2007.

Mohd. Sayed Mohd. Yasin Shaikh ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Nitin Sejpal, Advocate for the applicant.

Mr K. V. Saste, A.P.P for the State-Respondent No.1.

Mr Raja Thakre, Advocate for the Respondent No.2.

CORAM: V.C. DAGA,J.
DATED: 25TH OCTOBER, 2007.

P.C.:-

1. Heard learned counsel for the applicant, learned APP for the State-respondent no.1 and the learned counsel for the Respondent No.2.

2. Perused the application and material available on record.

3. The applicant is seeking bail under Section 439 of the Cr.P.C.read with Section 21 (4) of Maharashtra Control of Organised Crime Syndicate Act ("the M.C.O.C. Act" for short) in C.R. No.135 of 2002 registered with Bund Garden Police Station, Pune for the offence punishable under Sections 120B, 216, 221, 255, 256, 257, 258, 259, 260, 263A, 403, 419, 420, 467, 468, 471, 472, 473, 474, 475, 476, 109 of the I.P.C. read with Sections 3 (1) (i), 3

(1) (ii), 3 (2), 3 (4), 3 (5), 4 and 24 of the M.C.O.C.Act, 1999 and Sections 7, 12 and 13 of the Anti-Corruption Act, 1988.

4. I must mention that the identical application being Criminal Application No. 4325 of 2004 moved by the present applicant Mohd. Sayed. Mohd Yasin Shaikh which was before this Court for withdrawal on 17.7.2007 and on the motion made by learned counsel for the applicant the same was allowed to be withdrawn without keeping any reservation.

5. Now after withdrawal of that application within another three months the present application has been moved. The learned counsel for the applicant submits that the other co-accused persons involved in a very same crime have been granted bail vide order dated 8.12.2006, 12.5.2006 and other three orders which according to him were passed in the month of February, 2007 and June, 2007. He, thus, submits that on parity grounds the applicant would be entitled for bail. He also tried to take me through the merits of the matter to urge that client is entitled for bail.

6. In my considered view, once the application having been withdrawn which was

moved for bail, without keeping any reservation, another application is not maintainable, unless there is change is in circumstance.

7. So far as the orders granting bail to the other co-accused are concerned. All these orders were available on the date when Criminal Application No. 4325 of 2004 was withdrawn. It was, therefore, open for the applicant to rely on these orders and to seek order on merits. Having withdrwn the earlier application without any reservation, in my considered view, second application in the absence of change in circumstances the present application is not maintainable. Same is, therefore, rejected.

(V.C. DAGA,J.)